

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

JAN 14 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

NATASHA P.,

Appellant,

v.

ARIZONA DEPARTMENT OF
ECONOMIC SECURITY and
HAYLIE P.,

Appellees.

2 CA-JV 2009-0087

ANTHONY P.,

Appellant,

v.

ARIZONA DEPARTMENT OF
ECONOMIC SECURITY and
HAYLIE P.,

Appellees.

2 CA-JV 2009-0088
(Consolidated)
DEPARTMENT B

MEMORANDUM DECISION
Not for Publication
Rule 28, Rules of Civil
Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. J-18525200

Honorable Patricia G. Escher, Judge

AFFIRMED

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B R A M M E R, Judge.

¶1 Appellants Natasha P. and Anthony P. are the married parents of a daughter, Haylie, born in June 2007, and a son, Kahlen, born in June 2008. In these consolidated appeals, Natasha and Anthony challenge the juvenile court’s order of July 21, 2009, terminating their parental rights to Haylie.

¶2 “‘We view the facts in a light most favorable to affirming the [juvenile] court’s findings.’” *Michael J. v. Ariz. Dep’t of Econ. Sec.*, 196 Ariz. 246, ¶ 20, 995 P.2d 682, 686 (2000), *quoting In re Maricopa County Juv. Action No. JS-8490*, 179 Ariz. 102, 106, 876 P.2d 1137, 1141 (1994). Because the court’s minute entry ruling is factually detailed and thorough, we provide here only a brief summary of the factual and procedural history of the case. Natasha and Anthony were both serving in the United States Air Force when they met. When they married less than three months later in July 2006, both were twenty-one years old.

Within months of Haylie's birth in July 2007, Natasha was deployed to Afghanistan. Soon after, in October 2007, Child Protective Services (CPS) received and investigated a report that Anthony was neglecting four-month-old Haylie.

¶3 As a result of CPS's involvement, Natasha returned from Afghanistan. In November 2007, she and Anthony agreed to Haylie's placement with a foster family, and CPS began providing the parents with intensive in-home services designed to improve their parenting skills and address other issues. By January, Natasha and Anthony had made only minimal progress, and the Arizona Department of Economic Security (ADES) thus filed a dependency petition on January 23, 2008. Both parents admitted the allegations of the petition, and Haylie was adjudicated dependent in mid-March 2008.¹

¶4 Throughout 2008, ADES continued to provide the parents with an array of therapeutic and supportive services designed to facilitate reunification of the family. Although the parents participated in those services, by December 2008 they had failed to achieve or maintain a sufficient level of financial independence, stability in housing and employment, and responsibility in general to demonstrate that they could "safely parent their children and not expose them to neglect." In the meantime, Haylie remained with the same family with whom she had been placed initially in November 2007. As the court later found:

¹The parents' second child, Kahlen, was born on June 19, 2008. He was taken into protective custody two days later and was adjudicated dependent in August 2008 pursuant to the parents' admissions. Their parental rights to Kahlen have not been terminated, and he therefore is not a party to this appeal.

“The foster parents have raised her for 21 of her 25 months of life. They have provided a safe and nurturing home for her and are willing to make that home permanent by adopting her.”

¶5 After a permanency hearing on December 15, 2008, the juvenile court ordered the case plan goal changed to severance and adoption. ADES filed a motion to terminate both parents’ rights to Haylie, and a contested severance hearing was held over twelve days between March 4 and June 22, 2009. The court ordered both parents’ rights terminated pursuant to A.R.S. § 8-533(B)(8)(c), based on Haylie’s having been in an out-of-home placement for longer than fifteen months and the parents’ continuing inability to remedy the circumstances necessitating the placement. The court ordered Anthony’s rights terminated on the additional statutory ground of neglect pursuant to § 8-533(B)(2).

¶6 On appeal, Natasha and Anthony raise a combined total of nine issues. Distilled to their essence, all nine essentially are challenges to the sufficiency of the evidence to sustain the factual findings necessary to establish the statutory grounds for termination and the finding that severing the parents’ rights was in Haylie’s best interests. In reviewing the sufficiency of the evidence, we do not reweigh that evidence to determine whether we would have made the same factual findings as the trier of fact. *Denise R. v. Ariz. Dep’t of Econ. Sec.*, 221 Ariz. 92, ¶ 5, 210 P.3d 1263, 1265 (App. 2009). Rather, we determine only whether substantial evidence exists to support the lower court’s findings. *Id.* ¶ 4. We will affirm the juvenile court’s ruling ““unless we must say as a matter of law that no one could

reasonably find the evidence [supporting statutory grounds for termination] to be clear and convincing.”² *Id.* ¶ 10, *quoting Murillo v. Hernandez*, 79 Ariz. 1, 9, 281 P.2d 786, 791 (1955).

¶7 We have reviewed the juvenile court’s detailed minute entry, the parties’ briefs, and the evidence presented at the termination hearing. In the process, we have found substantial evidence to sustain the court’s factual findings. Those findings, in turn, support the court’s legal conclusion that severing the parents’ rights to Haylie was warranted. In light of the court’s comprehensive written ruling, no useful purpose would be served by our “further ‘rehashing the trial court’s correct ruling’ in our decision,” *Jesus M. v. Ariz. Dep’t of Econ. Sec.*, 203 Ariz. 278, ¶ 16, 53 P.3d 203, 207-08 (App. 2002), *quoting State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). We therefore adopt the juvenile court’s findings of fact, approve its conclusions of law, and affirm its order terminating Natasha’s and Anthony’s parental rights to Haylie.

¶8 The only issue raised by either party that concerns a matter other than the sufficiency of the evidence to support the judgment is Anthony’s assertion that the juvenile court failed to make an essential factual finding before ordering his rights terminated pursuant to § 8-533(B)(8)(c). That subsection requires proof that

²Establishing that the best interests of the child will be served by terminating a parent’s rights requires proof only by a preponderance of the evidence. *See Kent K. v. Bobby M.*, 210 Ariz. 279, ¶ 41, 110 P.3d 1013, 1022 (2005).

[t]he child has been in an out-of-home placement for a cumulative total period of fifteen months or longer pursuant to court order . . . , the parent has been unable to remedy the circumstances that cause the child to be in an out-of-home placement and there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care and control in the near future.

Anthony mistakenly contends the court in its written ruling “never made a finding as to this [final] prong” and therefore erred in finding termination justified under § 8-533(B)(8)(c).

¶9 Although the juvenile court did not use the exact language of the statute in its ruling, it found that, “given the limited progress that has been made despite at least ten months of extensive therapeutic services, the Court can only conclude that this behavior [failing to remedy the circumstances that caused Haylie to be in care] will continue for a prolonged, indeterminate period.” From that finding and the court’s references in its preceding paragraph to “the testimony as to how much longer it will be before the experts believe the children can be placed with the [parents], the length of time intensive services will be needed after placement, and their uncertain views as to the ultimate outcome,” it is evident that the court effectively found “a substantial likelihood that the parent[s] will not be capable of exercising proper and effective parental care and control in the near future.” § 8-533(B)(C). We thus find no error.

¶10 The juvenile court's order terminating Natasha's and Anthony's parental rights to Haylie is affirmed.

J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

GARYE L. VÁSQUEZ, Judge